

ORDER NO. 1833

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Nanci E. Langley

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
with Foreign Postal Operators  
Korea Post – United States Postal Service Bilateral  
Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2013-9

NOTICE AND ORDER CONCERNING KOREA POST  
NEGOTIATED SERVICE AGREEMENT

(Issued September 12, 2013)

I. INTRODUCTION

*Background.* On September 10, 2013, the Postal Service filed notice, pursuant to 39 CFR 3010.40 *et seq.*, announcing that it has entered into a bilateral agreement with Korea Post (Agreement), along with a Type 2 rate adjustment.<sup>1</sup> It asks that the Commission include the Agreement within the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010-35) product on grounds of

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<sup>1</sup> Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Bilateral Agreement with Korea Post, September 10, 2013 (collectively, Notice).

functional equivalence. This Order provides public notice of the Postal Service's Notice, invites comments, and takes other administrative actions.

## II. THE POSTAL SERVICE'S FILINGS

*Compliance with filing requirements.* In addition to the Notice, the Postal Service filed an application for non-public treatment of materials filed under seal (Attachment 1); a redacted copy of the Korea Post Agreement (Attachment 2); and a redacted Excel file with supporting financial documentation. Notice at 3. The Postal Service also filed unredacted copies of the Agreement and the supporting financial documentation under seal. *Id.*

The Agreement is the most recent in a series of agreements the Postal Service has proposed for inclusion within Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010-35).<sup>2</sup> The Postal Service identifies Korea Post, the postal operator for the Republic of Korea, and the Postal Service as the parties to the Agreement. *Id.* at 4.

The Postal Service describes the Agreement as establishing a service for delivery confirmation scanning with Letter Post small packets. *Id.* It asserts this service is similar to the service for delivery confirmation scanning with Letter Post small packets established by the China Post 2010 Agreement and other agreements approved for inclusion with the product. *Id.* It states that the Type 2 rate adjustment results in an improvement over default rates established under the Universal Postal Union Acts for inbound letter post items. *Id.* at 1.

The Postal Service identifies October 1, 2013 as the intended effective date; states that its Notice provides the requisite advance notice; identifies a Postal Service official as a contact person; provides financial data and information in the redacted

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<sup>2</sup> See Notice at 1-2 for previous agreements. The Postal Service uses the Singapore Post Agreement for purposes of identifying differences in the Agreement.

workpapers; describes expected operational improvements; and addresses why the Agreement will not result in unreasonable harm to the marketplace. *Id.* at 4-7.

*Data collection and performance reporting proposals.* The Postal Service proposes that no special data collection plan be created for the Agreement because it intends to report information on the Agreement through the Annual Compliance Report. *Id.* at 7. With respect to performance measurement, the Postal Service asks that it be excepted from separate reporting under 39 CFR 3055.3(a)(3), and cites the Commission's granting of similar exceptions for other agreements in support of its proposal. *Id.* at 7-8. The Postal Service further requests, pursuant to 39 CFR 3055.3(a)(3), that the Commission approve an exception to the performance reporting requirements for all agreements added to the Mail Classification Schedule as Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 because the performance of the products covered by those agreements is already included in the measurement of other products. *Id.* at 12.

*Statutory criteria.* The Postal Service states that under 39 U.S.C. 3622(c)(10), the criteria for Commission review are whether the Agreement (1) improves the Postal Service's net financial position or enhances performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* at 8. It states that it addresses the first two criteria in its Notice and views the third criterion as inapplicable, given Korea Post's status as the designated operator for Letter Post originating in the Republic of Korea. *Id.*

*Functional equivalence.* In support of a finding of functional equivalence, the Postal Service states that the terms of the Agreement fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1, so the Agreement and the agreements previously included within this product conform to a common description. *Id.* at 9. The Postal Service also states that the Agreement and referenced agreements constructed from a similar template and contain many similar terms and conditions, including

establishing a service for delivery confirmation scanning with Letter Post small packets; are with foreign postal operators; and have cost characteristics, as they relate to services for delivery confirmation scanning with Letter Post small packets, that are similar. *Id.* at 9-10.

The Postal Service identifies two material differences between the Agreement and the Singapore Post Agreement. Article 8, Paragraph 1 provides that the Agreement may be terminated for good cause if a party fails to make timely and full payment of any undisputed invoice of portion thereof. *Id.* at 11. Annex 2 to the Agreement contains a section related to interest on past due undisputed invoices and portions thereof for inbound mailstreams. *Id.* The Postal Service states that these differences do not detract from the conclusion that the Korea Post Agreement is functionally equivalent to the Singapore Post 2011 Agreement and other agreements in the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.*

### III. SUPPLEMENTAL INFORMATION

The Notice states: “The agreement’s inbound market dominant rates are planned to become effective on October 1, 2013. Public notice of these rates is being given through this Notice at least 45 days before the effective date.” *Id.* at 3.<sup>3</sup> Given the filing date of the Notice, please reconcile these two statements. A response to this inquiry is due no later than September 16, 2013.

### IV. COMMISSION ACTION

The Commission, in conformance with rule 3010.44, establishes Docket No. R2013-9 to consider matters raised by the Notice. The Commission invites interested persons to submit comments on whether the Notice is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. Comments are due no later than September 20, 2013.

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<sup>3</sup> See also 39 CFR 3010.44(b) (“[N]o rate shall take effect until 45 days after the Postal Service files a notice of rate adjustment specifying that rate.”).

The public portions of the Postal Service's filings have been posted on the Commission's website. They can be accessed at <http://www.prc.gov>. Information on how to obtain access to non-public material is available at 39 CFR part 3007.

The Commission appoints James F. Callow to serve as Public Representative in this proceeding.

#### V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket No. R2013-9 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Bilateral Agreement with Korea Post, filed September 10, 2013.
2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons are due no later than September 20, 2013.
4. The response to the supplemental information requested is due no later than September 16, 2013.

5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary